

10/17/2001



1765005 - R8 SDMS

ERIC JAMES HEIL

RICO TOWN MANAGER AND ATTORNEY

TELECOPIER COVER SHEET

TO: SHELDON MULLER DATE: 10-18-01

FAX NO: (303) 312-6916

FROM: Eric James Heil

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RE: RESOLUTION NO: MINE DISCHARGE

PAGES W/ COVER: 3

NOTES:

**TOWN OF RICO
RESOLUTION NO. 2001-4**

**CONCERNING WATER POLLUTION BY INACTIVE AND
ABANDONED MINES IN THE RICO AREA**

WHEREAS, the Rico Regional Master Plan, Section III. Goals and Objectives, Environmental Protection, Objective 3. States that is an objective of the Town to, "Ensure all water in the Rico Region, both ground and surface, meet water quality standards capable of supporting aquatic life at a level comparable to other natural mountain streams; and that these waters do not pose a human or other environmental health threat in the valley"; and,

WHEREAS, the United States of America has filed a civil action in May, 2000, pursuant to the federal Clean Water Act, and the Colorado Water Quality Control Act against Rico Development Corporation, and Wayne Webster and Virginia Sell individually, for unlawful discharge of pollutants and for the failure to monitor and report the discharge of pollutants; and,

WHEREAS, such violations have occurred since and prior to 1996 and Rico Development Corporation allowed its corporate status in Colorado to elapse on November 1, 1996, which coincides with the sale of substantial assets held by Rico Development Corporation to Rico Properties, LLC, Rico Renaissance, LLC, and related and controlled other entities; and,

WHEREAS, Rico Properties received title to the St. Louis Tunnel area from Rico Development Corporation, then unilaterally executed a "Correction Deed" and attempted to transfer this property back to Rico Development Corporation, in February of 1997, which occurred after the dissolution of Rico Development Corporation on November 1, 1996, thus clouding the legal status of ownership of the St. Louis Tunnel area; and,

WHEREAS, Virginia Sell has since deceased and the Rico Town Board, upon information, has cause to believe that Wayne Webster, due to health and age, may decease in the near future, and during at least the last five years and more valuable assets in the form of real estate has been sold by Rico Development Corporation, by Wayne Webster and/or Virginia Sell individually or by relatives of Wayne Webster and/or Virginia Sell, by Rico Properties, LLC., and by Rico Renaissance, LLC., and related entities; and,

WHEREAS, the Town Board finds that Rico Properties, LLC., and Rico Renaissance, LLC., have always represented these respective entities and other entities that own land purchased from Rico Development Corporation, as related entities with common control for the purpose of planning and development approvals sought from the Town of Rico; and,

WHEREAS, the Town Board finds that the sale of properties by all mentioned subsequent owners of the former Anaconda property holdings in the Rico area has occurred and that all mentioned subsequent owners of the former Anaconda property holdings in the Rico area have sought to avoid liability for the water pollution discharges related to inactive and abandoned mines in the Rico area; and,

WHEREAS, the Town Board finds that the treatment of the St. Louis Tunnel discharge has been abandoned since 1996 and any plan, agreement or federal or state action related to the unlawful discharge of pollutants into the Dolores River and/or Silver Creek is likely to require several more years before such discharge or discharges are treated and such pollution is abated and that any such plan, agreement or federal or state action is likely to involve multiple entities, property owners, and individuals; and,

WHEREAS, Atlantic Richfield Company has expressed interest in participating in the re-establishment of treatment for the St. Louis Tunnel discharge, has taken preliminary steps to prepare an assessment plan for treatment, has taken action to repair the Blaine Tunnel bulkhead and eliminate that discharge into Silver Creek, has taken action to maintain the treatment area settling ponds to prevent potential catastrophic failure of the settling ponds, and has proposed a *Schedule Outline Development of Proposal for St. Louis Adit Discharge Remedy*;

NOW, THEREFORE, be it resolved by the Board of Trustees, the following:

1. Support of Schedule Outline

The Board of Trustees hereby supports the *Schedule Outline Development of Proposal for St. Louis Adit Discharge Remedy*, the included task items listed, and the overall concept of all related parties working together to reach an equitable and workable solution to re-institute adequate treatment of the St. Louis Adit Discharge in order to promote protecting and restoring the aquatic habitat in the Rico Region and to reduce environmental health threats in the Rico Region.

2. Support of Continued Federal and State Action

The Board of Trustees hereby supports continued action by federal and state agencies to enforce compliance with the Clean Water Act and the Colorado Water Quality Control Act, to seek penalties and fines for past willful violations of the discharge permit requirements, and to use CERCLA and Superfund authority as necessary to expedite re-institution of adequate treatment of the St. Louis Tunnel Adit.

3. Support of Considering Town Participation

The Board of Trustees hereby supports participation by the Town of Rico during the Schedule Outline period and otherwise to consider, study, analyze and discuss potential opportunities for the Town of Rico, or other community based entities as may be determined appropriate, to facilitate, participate or otherwise assist with efforts to re-institute adequate treatment of the St. Louis Tunnel Adit.

Resolution read, approved and adopted this 17th day of October, 2001.

By: Robert E. Cummings
Rob Cummings, Mayor Pro-Tem

Attest: Linda Yellowman
Linda Yellowman, Town Clerk